THE HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.6029 of 2001

Date: 11.07.2007

Between:

Pottepalem Toddy Tappers Co-op. Society,
Rep. by its President, V. Naraiah, S/o.V.Narsaiah,
Pottepalem Village, Nellore Rural Mandal,
Nellore District.

..... PETITIONER

AND

1. Prohibition and Excise Superintendent
   & Ex-Officio Deputy Registrar of
   Co-operative Societies, Nellore and others.

.....RESPONDENTS

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ORDER:

The petitioner-society sought for a *mandamus* declaring the order passed by the first respondent in Proc.No.Rc.No.303/2000/A3, dated 28.08.2000 directing it to admit the third respondent as its member, as illegal, arbitrary, without jurisdiction and violative of principles of natural justice, and consequently to set aside the same.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Prohibition and Excise.

As per the postal endorsement, the third respondent refused to receive the notice. Hence, the notice is deemed to have been served on him.

The learned Government Pleader for Prohibition and Excise fairly conceded that the powers under Section 19 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act'), have not been delegated to the functional Registrar under G.O.Ms.No.234, Food & Agricultural (Co-op. IV) Department, dated 03.04.1979.

Sub-section (2-B) of Section 19 of the Act ordains that the Registrar may either *suo motu* at any time or on any application by the society or any aggrieved person made within fifteen days from the date mentioned in sub-section (2-A) and after giving an opportunity to the person concerned and recording the reasons therefor declare such person as not eligible for membership of the society within thirty days from the date of receipt of application by the Registrar.

As the powers under Section 19 of the Act have not been delegated or conferred on the first respondent, the action of the first respondent directing the petitioner-society to admit the third respondent as its member is totally without jurisdiction and beyond the powers. In view of the same, the writ petition is liable to be allowed.

Accordingly, the impugned order, dated 28.08.2000, is set aside and the writ petition is allowed. There shall be no order as to costs.

A. GOPAL REDDY, J

Date: 11.07.2007

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